

OFFICIAL GAZETTE



GOVERNMENT OF GOA

EXTRAORDINARY

No. 2

GOVERNMENT OF GOA

Department of Law and Judiciary

Legal Affairs Division

Notification

7-25-2000/LA

The Goa Tax on Entry of Goods Act, 2000 (Goa Act 14 of 2000), which has been passed by the Legislative Assembly of Goa on 26-7-2000 and assented to by the Governor of Goa on 11-8-2000, is hereby published for general information of the public.

S. G. Marathe, Under Secretary (Drafting).

Panaji, 11th August, 2000.

The Goa Tax on Entry of Goods Act, 2000

Goa Act 14 of 2000 [11-8-2000]

AN

ACT

to provide for the levy of tax to regulate the use of facilities, infrastructure, etc., provided in the State of Goa on entry of goods into its local areas for consumption, use or sale therein.

Be it enacted by the Legislative Assembly of Goa in the Fifty-first Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*— (1) This Act may be called the Goa Tax on Entry of Goods Act, 2000.

(2) It shall extend to the whole of the State of Goa.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*— (A) In this Act, unless the context otherwise requires, —

(a) "agricultural produce or horticultural produce" shall not include tea, coffee, rubber, cashew, cardamom, pepper and cotton; and such produce as has been subjected to any physical, chemical or other process for being made fit for consumption, save mere cleaning grading, sorting or drying;

(b) "assessee" means a person who is liable to pay tax;

(c) "assessing authority" means any officer empowered to make an assessment under the Goa Sales Tax Act, 1964 (Act 4 of 1964);

(d) "Assistant Commissioner" means a person appointed by that designation by the Government under the Goa Sales Tax Act, 1964 (Act 4 of 1964);

(e) "business" includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture, whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make gain or profit and whether or not any profit accrues from such trade, commerce, manufacture, adventure or concern and any transaction in connection with or incidental or ancillary to such trade, commerce, manufacture, adventure or concern;

(f) "Commissioner" means the person appointed to be the Commissioner of Sales Tax in the State and includes an Additional Commissioner;

(g) "dealer" means any person who in the course of business, whether on his own account or on account of a principal or any other person, brings or causes to be brought into a local area any goods or takes delivery or is entitled to take delivery of goods on its entry into a local area and includes an occasional dealer, a casual trader, a non-resident dealer;

Explanation I.— An industrial, commercial or trading undertaking of the Government of Goa, the Central Government or any other State Government, a local authority, company, a Hindu undivided Family, a firm, a society, a club or an association which carries on such business shall be deemed to be a dealer for the purposes of this Act.

Explanation II.— A society (including a co-operative society), club or firm or an association which, whether or not in the course of business, buys, sells, supplies or distributes goods from or to its members for cash or for deferred payment or for commission, remuneration or other valuable consideration, shall be deemed to be a dealer for the purpose of this Act.

Explanation III.— The Central Government or a State Government other than the Government of Goa which, whether or not, in the course of business, buys, sells, supplies or distributes goods, directly or otherwise, for cash or deferred payment or for commission, remuneration or other valuable consideration shall be deemed to be a dealer for the purpose of this Act.

Explanation IV.— When a consignee does not take delivery of goods upon its entry into a local area, and such goods are sold under the provisions of any law, the buyer who takes delivery of such goods upon the goods being sold shall be deemed to be the dealer thereof.

Explanation V.— A person undertaking the execution of works contract involving the use or consumption of goods entering into a local area shall be deemed to be the dealer thereof.

Explanation VI.— Any person who brings or causes to be brought any goods into a local area, but resides outside the State of Goa (hereinafter referred to as "a non-resident dealer") including his agent or manager shall be deemed to be the dealer thereof.

Exception:— An agriculturist who brings exclusively agricultural produce grown on land cultivated by him personally shall not be deemed to be a dealer within the meaning of this clause.

(h) "Deputy Commissioner" means the person appointed by that designation by the Government under the Goa Sales Tax Act, 1964 (Act 4 of 1964);

(i) "facility/infrastructure" includes roads/bridges/any river transport facilities like jetty, etc., industrial estates, any other facilities having its impact on movement of goods or processing.

(j) "goods" means all kinds of movable property (other than newspapers, actionable claims, stocks, and shares and securities) and includes livestock;

(k) "goods vehicle" means any kind of vehicle used for carriage of goods, either solely or in addition to passengers (other than aeroplanes and rail coaches) and includes push cart, animal drawn cart, tractor-trailer and the like;

(l) "Government" means the Government of Goa;

(m) "local area" means the area within the limits of a Council constituted under the Goa Municipalities Act, 1968 (Act 7 of 1969), or a Panchayat or Zilla Panchayat established under the Goa Panchayat Raj Act, 1993 (Act 14 of 1994), a cantonment board, any specified area notified by the Government and any other local authority

by whatever nomenclature called, constituted or continued under any law for the time being in force;

(n) "occasional dealer" means any person who, in the course of occasional transactions of business nature, whether on his own account or on account of a principal or any other person, brings or causes to be brought into a local area any goods or takes delivery or is entitled to take delivery of goods on its entry into a local area;

(o) "place of business" means any place where a dealer is doing business and includes:—

1. any warehouse, godown, or other place where the dealer stores or processes his goods;
2. any place where the dealer produces or manufactures goods;
3. any place where the dealer keeps his books of accounts;
4. any place where the dealer carries on business through an agent (by whatever name called), the place of business of such agent;

(p) "registered dealer" means a dealer registered under this Act;

(q) "Schedule" means a Schedule appended to this Act;

(r) "tax" means tax leviable under this Act;

(s) "Tribunal" means the Tribunal constituted under the Goa Administrative Tribunal Act, 1965 (Act 6 of 1965);

(t) "value of goods" shall mean the purchase value of such goods, that is to say, the purchase price at which a dealer has purchased the goods inclusive of charges borne by him as cost of transport, packing, forwarding and handling charges, commission, insurance, taxes, duties and the like, or if such goods have not been purchased by him, the prevailing market price of such goods in the local area;

(u) "works contract" means any agreement for carrying out for cash, deferred payment or other valuable consideration, the construction, fitting out, improvement or repair of any building, road, bridge or any other immovable property, or manufacture, processing, fabri-

cation, erection, installation, fitting out, improvement, modification, repair, conversion or commissioning of any movable property;

(v) "Year" means the year commencing on the first day of April.

(B) Words and expressions used in this Act, but not defined, shall have the meaning as assigned to them in the Goa Sales Tax Act, 1964 (Act No. 4 of 1964).

CHAPTER II

Levy of tax

3. *Levy of tax.*— (1) There shall be levied and collected a tax on entry of any goods specified in SCHEDULE I hereto, into a local area upon use of any facilities/infrastructure or any other amenities belonging to or provided by the State for consumption, use or sale therein, at such rates not exceeding the rate as provided for such goods under the Goa Sales Tax Act, 1964 (Act 4 of 1964) as may be specified retrospectively or prospectively by the Government by notification, and different dates and different rates may be specified in respect of different goods or different classes of goods or different local areas.

(2) The tax levied under sub-section (1) shall be paid by every registered dealer or a dealer liable to get himself registered under this Act who brings or causes to be brought into a local area the goods, using any facilities/infrastructure or any other amenities belonging to or provided by the State whether on his own account or on account of his principal or any other person or who takes delivery or is entitled to take delivery of such goods on its entry into a local area.

Explanation.— Where the goods are taken delivery of on its entry into a local area or brought into a local area by a person other than a dealer, the dealer who takes delivery of the goods from such person shall be deemed to have brought or caused to have brought the goods into the local area.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), no tax shall be levied on and collected from a dealer who brings or causes to be brought into a local area any goods,—

1. in respect of which tax has been paid or has become payable in any other local area under sub-section (1), or

2. in respect of which tax has been paid or has become payable under the Goa Sales Tax Act, 1964 (Act 4 of 1964).

Explanation.— For the purposes of this section, tax paid or become payable should be on goods in the same form in which they are brought or caused to be brought into the local area.

(4) No tax shall be levied under this Act on any goods specified in SCHEDULE II hereto on its entry into a local area for consumption, use or sale therein.

(5) No tax shall be levied on a defence unit or establishment which causes entry of any goods liable to tax under this Act, into a local area for use by it in the manufacture, repair or research and development of defence and defence related goods only if it is brought in directly by the establishment itself.

(6) Every manufacturer who brings or causes to be brought any goods into the State, the aggregate value of which is less than one lakh rupees in a year and any other dealer who brings or causes to be brought any goods into a local area, the aggregate value of which is less than two lakh rupees, shall not be liable to pay tax for that year:

Provided that every non-residential dealer including his agent or manager, or every occasional dealer shall be liable to pay the tax each year at the rates specified irrespective of the aggregate value of the goods brought or caused to be brought into the local area during the year.

(7) The tax shall be assessed, levied and collected in such manner and in such instalments, if any, as may be prescribed.

(8) Subject to such rules as may be made the assessing authority may assess a dealer for any year, as if, the aggregate value of the goods brought or caused to be brought into a local area in such year had been received as in the previous year.

(9) The tax shall be in addition to the tax levied and collected as octroi by a Municipal Council, Zilla Panchayat or Village Panchayat or any other local authority, as the case may be, within its local areas.

4. *Collection of tax by registered dealer.*— (1) A person who is not a registered dealer shall not collect any amount by way of tax or purporting to be by way of tax under this Act, nor shall a registered dealer collect any amount by way of tax or purporting to be by way of tax at a rate or rates exceeding the rate or rates specified in a notification issued under section 3.

(2) No dealer shall collect any amount by way of tax or purporting to be by way of tax in respect of the entry of any goods on which no tax is payable by him under the provisions of this Act.

5. *Collection of tax by Central Government or the Government.*— Notwithstanding anything contained in this Act, the Central Government or the Government shall be entitled to collect, by way of tax, any amount which a registered dealer would be entitled to collect by way of tax under this Act.

6. *Penalty for collection in contravention of section 4.*— If any person contravenes any of the provisions of section 4, the assessing authority may, after giving such person a reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty a sum not exceeding one and a half times of such amount:

Provided that no prosecution for an offence under section 41 shall be instituted in respect of the same contravention for which a penalty has been imposed under this section.

7. *Payment and disbursement of amounts wrongly collected by dealers as tax.*— (1) Where any amount is collected by way of tax or purporting to be by way of tax from any person by any dealer in contravention of section 4, whether knowingly or not, such dealer shall pay the entire amount so collected to the assessing authority within thirty days after the close of the month in which such amount was collected, notwithstanding that the dealer is not liable to pay such amount as tax or that only a part of it is due from him as tax under this Act.

(2) If default is made in payment of the amount in accordance with sub-section (1),—

1. the whole of the amount outstanding on the date of default shall become immediately due and shall be a charge on the properties of the dealer;
2. the dealer liable to pay the amount shall pay interest at the rate of one and one half percent of such amount for each month of default; and
3. the whole of the amount remaining unpaid along with the interest calculated under clause (ii) of this sub-section shall be recoverable in the manner specified in section 19.

(3) Notwithstanding anything contained in this Act or in any other law for the time being in force, any amount paid or payable by any dealer under sub-section (1) shall, to the extent it is not due as tax, be forfeited to the Government and be recovered from him and such payment or recovery shall discharge him of the liability to refund the amount to the person from whom it was collected.

(4) Where any amount is paid or recovered from any dealer under sub-section (1) or sub-section (3), as the case may be, a refund of such amount or any part thereof can be claimed from the Government by the person from whom it was realized by way of tax provided an application in writing in the prescribed form is made to the Commissioner, within two years from the date of the order of forfeiture. On receipt of any such application, the Commissioner shall hold such inquiry as he deems fit and if the Commissioner is satisfied that the claim is valid and admissible and that amount as claimed as refund is actually paid or recovered, he shall refund the amount or any part thereof, which is found due to the persons concerned:

Provided that a fund shall be established by the Government within three months from the commencement of this Act from the amounts forfeited or recovered except for the amounts refunded as aforesaid to the persons concerned, and after deducting the expenses of collection and recovery as determined. The fund shall be administered in the prescribed manner and the amount in the fund shall be utilized for meeting the expenses of any welfare activity by Governmental or non-Governmental organization functioning in the State or credited to Chief Minister's Relief Fund.

8. *Registration of dealers.*— (1) Every dealer,—

(a) who buys or receives goods liable to tax under this Act and who is doing business in a local area and is registered or is liable for registration under section 11 of the Goa Sales Tax Act, 1964 (Act 4 of 1964), or

(b) who brings or causes to be brought such goods into a local area or takes delivery or is entitled to take delivery of such goods, the aggregate value of which is not less than two lakhs rupees in a year,

shall get himself registered under this Act in such manner, on payment of such fee and within such period as may be prescribed. The registration shall be renewed from year to year on payment of the prescribed fee until it is cancelled:

Provided that every dealer who is a manufacturer who buys or causes to be brought such goods into a local area or every dealer who brings or causes to be brought such goods into the State shall get himself registered under this Act, if the aggregate value of such goods brought into a local area or into the State, as the case may be, is not less than one lakh rupees in a year.

(2) Notwithstanding anything contained in sub-section (1),—

(i) every dealer undertaking execution of works contract involving the use or consumption of goods entering into a local area;

(ii) every occasional dealer;

(iii) every manager or agent of a non-resident dealer; other than a dealer dealing exclusively in the goods specified in the Schedule II,

shall get himself registered irrespective of the value of such goods.

(3) No dealer who is already registered under the Goa Sales Tax Act, 1964 (Act 4 of 1964), shall be required to pay registration or renewal fee under this Act.

(4) Nothing contained in this section shall apply to any State Government or the Central Government.

CHAPTER III

9. *Definitions.*— In this Chapter, unless the context otherwise requires,—

(a) "accessories" means air-conditioners, music system and any other articles fitted to a motor vehicle and which are not included in the original invoices;

(b) "entry of motor vehicle into a local area from outside the State" with all its grammatical variations and cognate expressions, means entry of motor vehicle, into a local area from any place outside the State for use or sale therein;

(c) "importer" means a person who brings a motor vehicle into a local area from any place outside the State for use or sale therein and who owns the vehicle at the time of its entry into a local area;

(d) "motor vehicle" means a motor vehicle as defined in clause (28) of section 2 of the Motor Vehicles Act, 1988 (Central Act 59 of 1988);

(e) "person" includes any company or association or body of individuals, whether incorporated or not, and also a Hindu undivided family, a firm, a society, a club, an individual, the Central Government or the Government of any other State, Union Territory, or a local Authority;

(f) "purchase Value" means the value of motor vehicle as ascertained from the invoice and includes the value of accessories fitted to the vehicle, insurance, excise duty, countervailing duties, sales tax, transport fee, freight charges and all other charges incidentally levied on the purchase of a motor vehicle:

Provided that, where purchase value of a motor vehicle is not ascertainable on account of non-availability or non-production of invoice or when the invoice produced is proved to be false or if the motor vehicle is acquired or obtained otherwise than by way of purchase, then the purchase value shall be at the value or price of being sold in open market;

(g) "State" means the State of Goa.

10. *Levy of tax.*— (1) Notwithstanding anything contained in section 3, there shall be levied and collected a tax on the entry of any motor vehicle into a local area for use or sale therein by an importer which is liable for registration, or assignment of a new registration mark in the State under the Motor Vehicles Act, 1988 (Central Act 59 of 1988),

(2) The tax shall be levied on the purchase value of the motor vehicles at such rate as may be fixed by the Government by notification but not exceeding the rates specified in respect of motor vehicles under the Goa Sales Tax Act, 1964 (Act 4 of 1964):

Provided that, no tax shall be levied and collected in respect of a motor vehicle which is registered in any Union territory or any other State under the Motor Vehicles Act, 1988 (Central Act 59 of 1988), fifteen months prior to the date on which a new registration mark is assigned in the State under the said Act.

(3) The tax levied under this section shall be paid by the importer in such manner and within such time as may be prescribed.

11. *Levy and collection of tax and penalties.*— The provisions of this Act, in so far as they relate to tax authorities, registration, filing of returns, assessments, re-assessments, levy of penalties, collection and recovery of tax and penalties, appeals, revisions, offences and prosecutions shall apply *mutatis mutandis* to the levy of tax on entry of motor vehicles into a local area for use or sale therein under this Chapter:

Provided that in the case of an importer, other than a dealer liable for registration under this Act, causing entry of motor vehicle into a local area for use or sale therein, he shall pay tax to such authority as the Commissioner may notify, within fifteen days from the date of entry of such vehicle into a local area or before an application is made for registration of the said vehicle or assignment of a new registration mark to such vehicle under the Motor Vehicles Act, 1988 (Central Act 59 of 1988), whichever is earlier.

12. *Exemption of tax in certain circumstances.*— Where any person is causing entry of motor vehicle into a local area within a period of fifteen months from the date of registration of such vehicle in any Union Territory or any other State under the Motor Vehicles Act, 1988 (Central Act 59 of 1988) and that such entry is occasioned as a result of shifting the place of his residence from such Union Territory or State into this State, the Commissioner may exempt such person from payment of entry tax on entry of such vehicle subject to production of proof in this regard by him.

13. *Restriction to registration, etc.*— Notwithstanding anything contained in any other law for the time being in force, where the liability to pay tax in respect of a motor vehicle arises under this Act and such motor vehicle is required to be registered or a new registration mark is required to be assigned to it in the State under the Motor Vehicles Act, 1988 (Central Act 59 of 1988), no registering authority shall either register any such motor vehicle or assign any new registration mark to such motor vehicle unless payment of such tax has been made by the person concerned in respect of such vehicle.

CHAPTER IV

Return, assessment, payment, recovery and collection of taxes.

14. *Returns and assessment.*— (1) Notwithstanding anything contained in section 18, every

registered dealer and every dealer who is liable to get himself registered under this Act shall, every year, submit a return to the assessing authority within such period, in such manner, and containing such particulars as may be prescribed.

(2) Before any dealer submits any return under sub-section (1), he shall, in the prescribed manner, pay in advance the full amount of tax payable by him on the basis of such return as reduced by any tax already paid under section 18 and shall furnish alongwith the return satisfactory proof of the payment of such tax. After the final assessment is made, the amount of tax so paid shall be deemed to have been paid towards the tax finally assessed.

(3) If the assessing authority is satisfied that any return submitted under sub-section (1) is correct and complete, he shall assess the dealer on the basis thereof.

(4) If no return is submitted by the dealer under sub-section (1) before the period prescribed or if the return submitted by him appears to the assessing authority to be incorrect or incomplete, he shall assess the dealer to the best of his judgement recording the reasons for such assessment:

Provided that before taking action under this sub-section the dealer shall be given reasonable opportunity of proving the correctness and completeness of the return submitted by him.

(5) While making any assessment under sub-section (4), the assessing authority may also direct the dealer to pay, in addition to the tax assessed, a penalty not exceeding one and a half times the amount of tax due that was not disclosed by the dealer in his return or in the case of failure to submit a return one and a half times the tax assessed, as the case may be.

(6) No assessment under this section for any year shall be made after a period of three years from the date on which return under section 14 for that year is submitted by a dealer:

Provided further that nothing contained in this sub-section limiting the time within which the assessment may be made shall apply to an assessment made on the assessee or any person in consequence of, or to give effect to any finding, direction or order made under sections 28, 29 or 30 or any judgment or order made by any Court.

(7) In computing the period of limitation for assessment under this section,—

(a) the time during which the proceedings for assessment in question have been deferred on

account of any stay order granted by any Court or any other authority shall be excluded;

(b) the time during which the assessment has been deferred in any case or classes of cases by the Commissioner for reasons to be recorded in writing shall be excluded.

(8) Where an assessment under this section is not concluded within the time specified under sub-section (6), the turnover or the value of taxable goods, as the case may be, declared by a dealer in his annual return shall be deemed to have been assessed for that year on the basis of the said return and the provisions of the Act relating to assessment of such escaped turnover or purchase value of taxable goods, as the case may be, payment and recovery, appeal and revision shall, *mutatis mutandis*, apply to such deemed assessment.

15. *Security deposit.*— (1) The assessing authority, may, for good and sufficient reasons, demand from any dealer liable to pay tax under this Act, security for the proper payment of tax payable by him and on such demand such dealer shall furnish the same within seven days from the date of receipt of an order demanding security from the aforesaid authority.

(2) The amount of security payable under sub-section (1), for any year shall not exceed an amount equivalent to one-half of the tax anticipated to be payable by the dealer for that year:

Provided that the assessing authority shall have power to demand at any time additional security if such authority has reason to believe that the security fixed was too low.

(3) The security paid under sub-section (2) in any year shall be maintained in full until it is dispensed with by the assessing authority on being satisfied that the reason for its demand no longer exists or until the registration certificate is cancelled, whichever is earlier.

16. *Cancellation of assessments in certain cases.*—(1) Where an assessee, within one month from the service of a notice of demand, makes an application and satisfies the assessing authority that he was prevented by sufficient cause from appearing as required under section 14, or that he did not receive the notice issued under that section or that he had not a reasonable opportunity of being heard, the assessing authority shall cancel the

assessment and proceed to make a fresh assessment in accordance with the provisions of section 14:

Provided that no application under this sub-section shall be entertained by the assessing authority if tax admitted in the return is not paid.

(2) Nothing contained in sub-section (1) shall apply to an assessment which has been made the subject-matter of an appeal under section 28.

(3) No appeal shall lie under section 28 against an order passed under this section.

(4) Every order passed under this section shall, subject to the provisions of sections 29, 31, 33 and 34, be final.

17. *Payment of tax for entry of goods escaping assessment.*— (1) If the assessing authority has reasons to believe that the whole or any part of the turnover of a dealer or the value of taxable goods brought or caused to be brought into a local area by a dealer, whether on his own account or an account of his principal or any other person or who has taken delivery or is entitled to take delivery of such goods on its entry into local area in respect of any period, has escaped assessment to tax or has been under assessed or has been assessed at a rate lower than the rate at which it is assessable under this Act or any deduction or exemption have been wrongly allowed in respect thereof, the assessing authority may, notwithstanding the fact that the whole or part of such escaped turnover or value of taxable goods, as the case may be, was already before the said authority at the time of original assessment or re-assessment, but subject to the provisions of sub-section (3), at any time within a period of eight years from the expiry of the year to which the tax relates, proceed to assess or re-assess to the best of its judgment the tax payable by a dealer in respect of such turnover or purchase value of such goods, as the case may be, after issuing a notice to the dealer and after making such enquiry as it may consider necessary.

(2) In making an assessment under sub-section (1), the assessing authority may, if it is satisfied that the escape from assessment is due to wilful non-disclosure of the entry of such goods by the dealer, direct him to pay, in addition to the tax assessed under sub-section (1), a penalty not exceeding one and a half times the tax so assessed:

Provided that no penalty under this sub-section shall be directed to be paid unless the dealer affected has had a reasonable opportunity of showing cause against such imposition.

(3) In computing the period of limitation for assessment under this section, the time during which an assessment has been deferred on account of any stay order granted by any Court or other authority or by reason of the fact that an appeal or other proceeding is pending, shall be excluded:

Provided that nothing contained in this section limiting the time within which any action may be taken or any order, assessment or reassessment may be made, shall apply to an assessment or reassessment made on the assessee or any person in consequence of or to give effect to, any finding direction or order made under sections 28, 29, 30, 31 or 33 or any judgment or order made by the Supreme Court, the High Court, or any other Court.

18. *Payment of tax in advance.*— (1) Subject to such rules as may be made, every registered dealer and every dealer liable to get himself registered under this Act shall send every month to the assessing authority a statement containing such particulars as may be prescribed and shall pay in advance the full amount of tax payable by him on the basis of the goods brought by him during the preceding month into the local area within thirty days after the close of the preceding month to which such tax relates and the amount so payable shall for the purpose of sub-section (4) of section 19 be deemed to be an amount due under this Act from such dealer.

(2) If default is committed in the payment of tax in accordance with sub-section (1) beyond ten days after the expiry of the period specified in the said sub-section, the dealer shall pay by way of penalty, a sum equal to two per cent of the tax payable for every such month or part thereof during which such default is continued.

(3) If, at the end of the year it is found that the amount of tax paid in advance by any dealer for any month or for the whole year in the aggregate was less than the tax payable for that month or the tax for the whole year as finally assessed, as the case may be, by more than fifteen per cent, the assessing authority may direct such dealer to pay, in addition to the tax, by way of penalty, a sum not exceeding one and a half times the amount of tax so paid falls short of the tax payable for the month or for the whole year, as the case may be:

Provided that no penalty under this sub-section shall be imposed unless the dealer affected has had a reasonable opportunity of showing cause against such imposition.

(4) If no such statement is submitted by a dealer under sub-section (1) before the date prescribed or if the statement submitted by him appears to the assessing authority to be incorrect or incomplete, the assessing authority may assess the dealer provisionally for that month to the best of his judgment, recording the reasons for such assessment, and proceed to demand and collect the tax on the basis of such assessment:

Provided that before taking action under this sub-section, the dealer shall be given a reasonable opportunity of being heard.

19. *Payment and recovery of tax.*— (1) The tax under this Act shall be paid in such manner and in such instalments, if any, and subject to such conditions and payment of such interest and within such time, as may be prescribed.

(2) If default is made in making payment in accordance with sub-section (1),—

(i) the whole of the amount outstanding on the date of default shall become immediately due and shall be a charge on the property of the person or persons liable to pay tax under this Act;

(ii) the person or persons liable to pay the tax under this Act shall pay a penalty equal to,—

(a) one and half percent of the amount of tax remaining unpaid for each month or for part thereof, for the first three months after the expiry of the time prescribed under sub-section (1); and

(b) two and half per cent of such amount for each month or for part thereof, subsequent to the first three months as aforesaid.

(3) Notwithstanding anything contained in sub-section (2), where the amount of penalty does not exceed rupees two lakh, the Commissioner and in any other case, the Government may, subject to such conditions as may be prescribed, remit the whole or any part of the penalty payable in respect of any period by any person or class of persons.

(4) Any tax assessed, or any other amount due under this Act from a dealer may, without prejudice to any other mode of collection be recovered,—

(a) as if it were an arrear of land revenue; or

(b) by attachment and sale or by sale without attachment of any property of such dealer or

any other person by the prescribed officer in accordance with such rules as may be prescribed:

Provided that where a dealer who has appealed or applied for revision of any order made under this Act and has complied with an order made by the appellate or the revising authority in regard to the payment of tax or other amount, no proceedings for recovery under this sub-section shall be made or continued until the disposal of such appeal or application for revision.

20. *Power to withhold refund in certain cases.*—

(1) Where an order giving rise to refund is the subject-matter of an appeal or further proceeding or where any other proceeding under this Act is pending, and the authority competent to grant such refund is of the opinion that the grant of refund is likely to adversely affect the revenue, such authority may, with the previous approval of the Commissioner, withhold the refund till such time as the Commissioner may determine.

(2) Where a refund is withheld under sub-section (1), the Government shall pay interest at the rate of twelve per cent per annum on the amount of refund ultimately determined to be due to the person as a result of the appeal or further proceedings, for the period from the date immediately following the expiry of ninety days from the date of the order referred to in sub-section (1) to the date of refund.

21. *Recovery of tax from certain other persons.*—

(1) The assessing authority may, at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the dealer from whom any tax assessed is due, at his last address known to the assessing authority) require any person from whom money is due to the dealer or any person who holds or may subsequently hold money for or on account of the dealer to pay to the assessing authority, either forthwith upon the money becoming due or being held at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the dealer in respect of arrears of tax or penalty or the whole of the money when it is equal to or less than that amount.

(2) The assessing authority may, at any time or from time to time, amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the dealer and the receipt of the assessing authority shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount referred to in the receipt.

(4) Any person discharging any liability to the dealer after receipt of the notice referred to in this section shall be personally liable to the assessing authority to the extent of the liability discharged or to the extent of the dealer for the amount due under this Act, whichever is less.

(5) Where any person to whom a notice under this section is sent objects to it on the ground that the sum demanded or any part thereof is not due by him to the dealer or that he does not hold any money for or on account of the dealer, then, nothing contained in this section shall be deemed to require such person to pay the sum demanded or any part thereof, to the assessing authority.

Explanation.— For the purposes of this section, the amount due to dealer or money held for or on account of dealer shall be computed after taking into account such claims, if any, as may have fallen due for payment by such dealer to such person and as may be lawfully subsisting.

22. Liability of firms.— (1) Where any firm is liable to pay any tax or other amount under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payment.

(2) Where a partner of a firm liable to pay any tax, or other amount under this Act retires, he shall, notwithstanding any contract to the contrary, be liable to pay the tax, or other amount remaining unpaid at the time of his retirement and any tax or other amount due upto the date of retirement, though unassessed.

23. Assessment of legal representative.— Where a dealer dies, his executor, administrator or other legal representative shall be deemed to be the dealer for the purposes of this Act and the provisions of this Act shall apply to him in respect of the business of the said deceased dealer:

Provided that, in respect of any tax, penalty or fee assessed or payable by any such dealer or any tax, penalty or fee which would have been payable

by him under this Act if he had not died, the executor, administrator or other legal representative shall be liable only to the extent of the assets of the deceased in his hands.

24. Tax payable on transfer of business, etc.—

(1) When the ownership of the business of a dealer liable to pay any tax or penalty, or any other amount under the provisions of this Act, is transferred, the transferor and the transferee shall jointly and severally be liable to pay any tax or penalty or any other amount payable but remaining unpaid at the time of transfer, and for the purpose of recovery from the transferee, such transferee shall be deemed to be the dealer liable to pay the tax or penalty or other amount under this Act.

(2) When a firm liable to pay the tax or penalty is dissolved, the assessment of the tax and imposition of penalty shall be made as if no dissolution of the firm had taken place, and every person who was at the time of dissolution a partner of the firm and the legal representative of any such person who is deceased, shall be jointly and severally liable to pay the tax or penalty assessed or imposed.

(3) When an undivided Hindu family, liable to pay the tax or penalty, is partitioned, the assessment of the tax and the imposition of penalty shall be made as if no partition of the family had taken place, and every person who was a member of the family before the partition shall be jointly and severally liable to pay the tax or penalty assessed or imposed.

(4) Where a dealer dies, his executor, administrator or other legal representative shall be deemed to be the dealer for the purpose of this Act and the provisions of this Act shall apply to him in respect of the business of the said deceased dealer, provided that, in respect of any tax or penalty assessed as payable by any such dealer or any tax or penalty which would have been payable by him under this Act if he had not died, the executor, administrator or other legal representative shall be liable only to the extent of the assets of the deceased in his hands.

25. Power of State Government to exempt or reduce tax.— (1) The Government may, if in its opinion it is necessary in public interest so to do, by notification and subject to such restrictions and conditions and for such period as may be specified in the notification, exempt or reduce, either prospectively or retrospectively, the tax payable under this Act,—

(i) by any specified class of persons or class of dealers or in respect of any goods or class of goods; or

(ii) on entry of all or any goods or class of goods into any specified local area.

(2) The Government may, by notification cancel or vary any notification issued under sub-section (1).

(3) Where any restriction or condition specified under sub-section (1) is contravened or is not observed by a dealer or a declaration furnished under the said sub-section is found to be wrong, then such dealer shall be liable to pay by way of penalty an amount equal to twice the difference between the tax payable at the rates specified by or under this Act and the tax paid at the rates specified under the notification on the value of such goods in respect of which such contravention or non-observance has taken place or a wrong declaration is furnished:

Provided that before taking action under this sub-section, the dealer shall be given a reasonable opportunity of being heard.

CHAPTER V

Tax authorities

26. *The Authorities.*— (1) The officers exercising powers, discharging duties and performing functions under the Goa Sales Tax Act, 1964 (Act 4 of 1964) in any area or in respect of any dealer or classes of dealer, shall exercise power, discharge duties and perform functions under this Act in respect of such area and such dealer or classes of dealers.

(2) The Commissioner may, by order in writing, at any time transfer any case pending before one officer to another officer and the officer to whom the case is so transferred may proceed either de novo or from the stage at which it was transferred.

(3) Where a case pending before an officer is transferred to another officer under sub-section (2), the officer to whom the case is transferred shall, notwithstanding anything contained in this Act, have the same powers and perform the same duties as those respectively conferred and imposed on the officer from whom the case is so transferred.

(4) The Government and the Commissioner may, from time to time, issue such orders, instructions and directions to all officers and persons employed in the execution of this Act as they may deem fit for the administration of this Act and all such officers and persons shall observe and follow such orders, instructions and directions of the Government and the Commissioner:

Provided that no such orders, instructions or directions shall be issued so as to interfere with the discretion of any appellate authority in the exercise of its appellate functions.

(5) Without prejudice to the generality of the foregoing power, the Commissioner may on his own motion or on an application by a dealer liable to pay tax under this Act, if he considers it necessary or expedient so to do, for the purpose of maintaining uniformity in the work of assessments and collection of revenue or for the removal of any doubt clarify the rate of tax payable under this Act in respect of goods liable to tax under the Act or the doubt, as the case may be, and all officers and persons employed in the execution of this Act shall observe and follow such clarification:

Provided that no such application shall be entertained unless it is accompanied by proof of payment of such fee paid in such manner as may be prescribed.

Explanation.— In this section, the word 'case' in relation to any dealer specified in any direction or order issued thereunder means all proceedings under this Act in respect of any year which may be pending on the date of such order or direction or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after the date of such order or direction in respect of any year.

27. *Change of incumbent of an office.*— Whenever, in respect of any proceeding under this Act, an assessing authority or any other officer ceases to exercise jurisdiction, and is succeeded by another who has, and exercises jurisdiction, the authority or officer so succeeding may continue the proceeding from the stage at which the proceeding was left by his or its predecessor:

Provided that the assessee concerned may demand that before the proceeding is so continued the previous proceeding or any part thereof be re-opened or that before any order of assessment is passed against him, he be re-heard.

CHAPTER VI

Appeal and revision

28. *Appeals.*— (1) Any person objecting to any order affecting him passed under the provisions of

this Act may appeal to such authority as may be prescribed (hereinafter referred to as the "appellate authority").

(2) The appeal shall be preferred within sixty days,—

(i) in respect of an order of assessment, from the date on which the notice of assessment was served on the appellant, and

(ii) in respect of any other order, from the date on which the order was communicated to the appellant:

Provided that the appellate authority may admit an appeal preferred after the period of sixty days aforesaid but within a further period of one hundred and eighty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within that period.

(3) (a) No appeal against an order of assessment shall be entertained by the appellate authority unless it is accompanied by satisfactory proof of the payment of the tax and penalty not disputed in the appeal.

(b) Notwithstanding that an appeal has been preferred under sub-section (1), the tax or other amount shall be paid in accordance with the order against which the appeal has been preferred:

Provided that the appellate authority may in its discretion, give such directions as it thinks fit in regard to the payment of tax or other amount payable under clause (b) if the appellant furnishes sufficient security to its satisfaction in such form and in such manner as may be prescribed.

(4) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(5) In disposing of an appeal, the appellate authority may, after giving the appellant a reasonable opportunity of being heard,—

(a) in the case of an order of assessment or penalty,—

(i) confirm, reduce, enhance or annul the assessment or penalty or both;

(ii) set aside the assessment and direct the assessing authority to make a fresh assessment after such further enquiry as may be directed; or

(iii) pass such other orders as it may think fit; and

(b) in the case of any other order, confirm, cancel or vary such order.

(6) Every order passed on appeal under this section shall, subject to the provisions of sections 29 to 34, be final.

29. *Appeal to the Tribunal.*— (1) Any officer empowered by the Government in this behalf or any other person objecting to an order passed by the appellate authority under section 28 or an order passed by a revisional authority under sub-section (3) of section 30 may appeal to the Tribunal within a period of sixty days from the date on which the order was communicated to him.

(2) The Tribunal may admit an appeal preferred after the period of sixty days referred to in sub-section (1) but within a further period of one hundred and eighty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within that period.

(3) The officer authorized under sub-section (1) or the person against whom an appeal has been preferred, as the case may be, on receipt of notice that an appeal against the order of the Deputy Commissioner or Assistant Commissioner has been preferred under sub-section (1) by the other party, may, notwithstanding that he has not appealed against such order or any part thereof, file at any time before the appeal is finally heard, a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Deputy Commissioner or the Assistant Commissioner, as the case may be, and such memorandum shall be disposed of by the Tribunal as if it were an appeal presented within the time specified in sub-section (1).

4. The appeal or the memorandum of cross-objections shall be in the prescribed form, shall be verified in the prescribed manner, and in the case of an appeal preferred by any person other than an officer empowered by the Government under sub-section (1) shall be accompanied by a fee equal to two per cent of the amount of assessment objected to, provided that the sum payable in no case be less than two hundred rupees or more than one thousand rupees.

(5) Notwithstanding that an appeal has been preferred under sub-section (1), the payment of tax or penalty or any other amount, payable in

accordance with any order passed by the Deputy Commissioner or the Assistant Commissioner under section 28 shall not, pending disposal of the appeal, be stayed by the Tribunal.

(6) The Tribunal shall, after giving both parties to the appeal a reasonable opportunity of being heard, pass such orders thereon as it thinks fit:

Provided that if the appeal involves a question of law on which the Tribunal has previously given its decision in another appeal and either a revision petition in the High Court against such decision or an appeal in the Supreme Court against the order of the High Court thereon is pending, the Tribunal may defer the hearing of the appeal before it till such revision petition in the High Court or the appeal in the Supreme Court is disposed of:

Provided further that if as a result of the appeal any change becomes necessary in the assessment which is the subject-matter of the appeal, the Tribunal may authorise the assessing authority to amend the assessment, and the assessing authority shall amend the assessment, accordingly and thereupon, any amount over paid by the assessee shall be refunded to him without interest, or any additional amount of tax due from him shall be collected in accordance with the provisions of the Act, as the case may be.

(7) Notwithstanding that an appeal has been preferred under sub-section (1), tax shall be paid in accordance with the assessment made in the case:

Provided that the Tribunal may, except in case of an appeal against an order passed by the Deputy Commissioner or Assistant Commissioner under section 28 in its discretion, give such directions as it thinks fit, in regard to the payment of tax, if the appellant furnishes sufficient security to its satisfaction in such form and manner as may be prescribed.

(8) (a) The Tribunal may, on the application, either of the appellant or of the respondent, review any order passed by it under sub-section (5) on the basis of facts which were not before it when it passed the order:

Provided that no such application shall be preferred more than once in respect of the same order.

(b) The application for review shall be preferred in the prescribed manner within six months from the date on which the order to which application relates was communicated to the applicant; and where the application is preferred by any person other than an officer empowered by the Government under sub-section (1), it shall be accompanied by a fee equal to that which had been paid in respect of the appeal:

Provided that if the application for review is preferred within ninety days from the date on which the order to which application relates is communicated to the applicant, the application shall be accompanied by half the fee which had been paid in respect of the appeal.

(9) With a view to rectifying any mistake apparent from the record, the Tribunal may, at any time, within five years from the date of any order passed by it under sub-section (5) or sub-section (7), amend such order:

Provided that no order under this sub-section shall be made without giving both parties affected by the order a reasonable opportunity of being heard.

(10) Except as provided in the rules made under this Act, the Tribunal shall not have power to award costs to either of the parties to the appeal or review.

(11) Every order passed by the Tribunal under sub-section (5) or sub-section (7) or sub-section (8) shall be communicated to the appellant, the respondent, the authority on whose order the appeal was preferred and the Assistant Commissioner concerned if he is not such authority, and the Commissioner.

(12) Every order passed by the Tribunal under sub-section (5) shall, subject to the provisions of sub-section (6), sub-section (7) and section 31, be final.

30. *Revisional powers of Commissioner and Deputy Commissioner.*— (1) The Commissioner/Additional Commissioner may on his own motion call for and examine the record of any proceeding under this Act and if he considers that any order passed therein by any officer subordinate to him is erroneous in so far as it is prejudicial to the interests of the revenue, he may, if necessary, stay the operation of such order for such period as he deems fit and after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems

necessary pass such orders thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment or directing a fresh assessment.

(2) The Deputy Commissioner may on his own motion call for and examine the record of any proceedings under this Act, and if he considers that any order passed therein by the Assistant Commissioner is erroneous in so far as it is prejudicial to the interests of revenue, he may, if necessary, stay the operation of such order for such period as he deems fit and after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon enhancing or modifying the assessment or cancelling the assessment or directing a fresh assessment.

(3) The Assistant Commissioner may on his own motion call for and examine the record of proceeding under this Act, and if he considers that any order passed by any officer who is not above such rank as may be prescribed is erroneous in so far as it is prejudicial to the interests of revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment or directing a fresh assessment.

(4) The power under sub-sections (1) to (3) shall be exercisable only within a period of four years from the date of the order sought to be revised and passed.

Explanation.— In computing the period of limitation for the purpose of sub-section (4), any period during which any proceeding under this section is stayed by an order or injunction of any Court shall be excluded.

31. *Revision by High Court.*— (1) Within sixty days from the date on which an order under sub-section (5) or sub-section (8) of section 29 was communicated to him, the appellant or the respondent may prefer a petition to the High Court against the order on the ground that the Tribunal has either failed to decide or decided erroneously any question of law:

Provided that the High Court may admit a petition preferred after the period of sixty days aforesaid if it is satisfied that the petitioner has sufficient cause for not preferring the petition within that period.

(2) The petition shall be in the prescribed form, shall be verified in the prescribed manner, and shall, when it is preferred by any person other than an officer empowered by the Government under sub-section (1) of section 29 be accompanied by a fee of one hundred rupees.

(3) If the High Court, on perusing the petition, considers that there is no sufficient ground for interfering, it may dismiss the petition summarily:

Provided that no petition shall be dismissed unless the petitioner has had a reasonable opportunity of being heard in support thereof.

(4)(a) If the High Court does not dismiss the petition summarily, it shall, after giving both the parties to the petition a reasonable opportunity of being heard, determine the question or questions of law raised and either reverse, affirm or amend the order against which the petition was preferred or remit the matter to the Tribunal with the opinion of the High Court on the question or question of law raised or pass such other order in relation to the matter as the High Court thinks fit.

(b) Where the High Court remits the matter to the Tribunal under clause (a) with its opinion on question of law raised, the latter shall amend the order passed by it in conformity with such opinion.

(5) Before passing an order under sub-section (4), the High Court may, if it considers necessary so to do, remit the petition to the Tribunal and direct it to return the petition with its finding on any specific questions of issue.

(6) Notwithstanding that a petition has been preferred under sub-section (1), the tax shall be paid in accordance with the assessment made in the case:

Provided that if as a result of the petition, any change becomes necessary in such assessment, the High Court may authorise the assessing authority, to amend the assessment and the assessing authority shall amend the assessment accordingly and thereupon the amount overpaid by the assessee shall be refunded to him without interest or the additional amount of tax due from him shall be collected in accordance with the provisions of this Act, as the case may be.

(7) With a view to rectify any mistake apparent from the record, the High Court may, at any time,

within five years from the date of the order passed by it under sub-section (4), amend such order:

Provided that no order under this sub-section shall be made without giving both parties affected by the order a reasonable opportunity of being heard.

(8) In respect of every petition preferred under sub-section (1) or (7), the costs shall be in the discretion of the High Court.

32. *Limitation in regard to passing orders in respect of certain proceedings.*— (1) Notwithstanding anything contained in sections 17 and 30, where any proceeding is initiated under section 17 or any records have been called for under section 30, the authority referred to in the said sections shall pass orders within a period of three years from the date of initiation of such proceedings or calling for the records, as the case may be.

(2) In computing the period specified in sub-section (1), the period during which a proceeding has been deferred on account of any stay granted by any Court or any other authority shall be excluded.

33. *Appeal to High Court.*— (1) Any assessee objecting to an order passed under sub-sections (1) and (2) of section 30 may appeal to the High Court within sixty days from the date on which the order was communicated to him:

Provided that the High Court may admit an appeal preferred after the period of sixty days aforesaid if it is satisfied that the assessee had sufficient cause for not preferring the appeal within that period.

(2) The appeal shall be in the prescribed form, shall be verified in the prescribed manner, and shall be accompanied by a fee of five hundred rupees.

(3) The High Court shall, after giving both parties to the appeal a reasonable opportunity, of being heard, pass such order thereon as it thinks fit.

34. *Rectification of mistakes.*— (1) With a view to rectifying any mistake apparent from the record, the assessing authority, appellate authority or revising authority may, at any time, within five years from the date of an order passed by it, amend such order:

Provided that an amendment which has the effect of enhancing an assessment or otherwise

increasing the liability of the assessee shall not be made unless the assessing authority, appellate authority or revising authority, as the case may be, has given notice to the assessee of its intention to do so and has allowed the assessee a reasonable opportunity of being heard.

(2) Where an order has been considered and decided in any proceedings by way of appeal or revision relating to an order referred to in sub-section (1), the authority passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under the sub-section in relation to any matter other than the matter which has been so considered and decided.

(3) An order passed under sub-section (1), shall be deemed to be an order under the same provision of law under which the original order the mistake in which was rectified had been passed.

CHAPTER VII

Miscellaneous

35. *Maintenance of accounts by dealers and issue of sales bills or cash memorandum.*— (1) Every registered dealer and every dealer liable to get himself registered for the purposes of this Act, shall, maintain and keep true and complete accounts relating to his business as well as such other registers or records as may be prescribed in this regard. All such accounts, registers or records shall be retained by the dealer in his safe custody till his assessment or re-assessment, as the case may be, for the relevant year is completed or, in cases where any appeal, revision or other proceedings in respect of such year has been filed and is pending, the same is disposed of.

(2) Every registered dealer and every dealer liable to get himself registered for the purposes of this Act shall issue, in respect of all goods sold by him a bill or cash memorandum signed and dated by him or his servant, manager or agent, showing particulars of his name, address, registration number, if any, and description, quantity and value of the goods sold, and shall keep the counterfoil or duplicate of such bill or cash memorandum with him and retain it in his custody for the period mentioned in sub-section (1):

Provided that the selling dealer shall also obtain and record in the sale bill or cash memorandum, the name and full address of the buyer, together with his registration number, if any, where the

buyer is a dealer, in cases where the sale price of goods is one thousand or more:

Provided further that the provisions of this sub-section shall not apply to a dealer whose total turn-over in scheduled as well as other goods in a year does not exceed thirty thousand rupees.

(3) Every sale bill or cash memorandum to be issued as per sub-section (2) shall be serially machine numbered.

36. Powers to order production of accounts and powers of entry, inspection and seizure.— (1) Any officer empowered by the State Government or the Commissioner in this behalf, may for the purpose of this Act, require any dealer carrying on business in any goods to produce before him the accounts and other documents, and to furnish any information relating to the stocks of the goods of or purchases, sales and deliveries of the goods by the dealer and also any other information relating to his business.

2 (i) All accounts and registers maintained by dealers in the ordinary course of their business and documents relating to the stock of the goods, or purchases, sales and deliveries of the goods by any dealer, computer hardware and software used for data inputting, processing and storage of all such information the goods in their possession and their offices, shops, godowns, vessels, receptacles or vehicles, shall be open to inspection at all reasonable times by such officers as may be authorized by State Government in this behalf.

(ii) For the purpose of inspection referred to in clause (i), any such officer shall have power to enter and search any office, shop, godown, vessel, receptacle, vehicle or any other place of business or any building or place where such officer has reason to believe that the dealer keeps or is for the time being keeping, any accounts, registers or documents of his business:

Provided that no residential accommodation (not being a place of business-cum-residence) shall be entered into and searched by such officer except on the authority of a search warrant issued by a Magistrate having jurisdiction over the area, and all searches under this sub-section shall so far, as may be, made in accordance with the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

(3) If any such officer has reason to suspect that any dealer is attempting to evade the payment of

any tax, fee or other amounts due from him under this Act, he may, for reasons to be recorded in writing, seize such accounts, registers, records and computer hardware and software, or other documents of the dealer as he may consider necessary and shall give the dealer a receipt for the same. The accounts, registers, records and computer hardware and software and documents so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceeding under this Act:

Provided that accounts, registers, records and computer hardware and software and other documents so seized shall not be retained by such officer for a period exceeding one hundred and eighty days from the date of seizure, unless the reason for retaining the same beyond the said period are recorded by him, in writing and the approval of the next higher authority is obtained and such approval in any case shall not be for more than sixty days at a time.

(4) It shall be open to the State Government to authorize different classes of officers for the purpose of taking action under clause (i) of sub-section (2).

37. Recognition of excise/sales tax checkpoints or barriers for the purposes of the Act.— (1) With a view to prevent or check evasion of tax under this Act, checkpoints or barriers or both, as the case may be, established or erected under the provisions of the Goa Sales Tax Act, 1964 (Act 4 of 1964) or the Goa Excise Duty Act, 1964 (Act 5 of 1964) shall be recognized for the purposes of this Act.

(2) The owner or person-in-charge of a goods vehicle carrying any of the goods shall carry with him the documents prescribed for the purpose of section 33 of the Goa Sales Tax Act, 1964 (Act 4 of 1964) and produce and give a copy of the same in the manner and to the officer prescribed in the said section.

(3) Where the owner or person in-charge of the goods vehicle carrying any goods is not required to carry the documents prescribed for the purpose of the Goa Sales Tax Act, 1964, he shall give a declaration in the prescribed form to the officer prescribed in the said section.

(4) The officer referred to in sub-section (3) of section 33B of Goa Sales Tax Act, 1964 may, in cases of the type and in the circumstances mentioned in the said sub-section levy penalty not exceeding double the amount of tax leviable under this Act in respect of the goods under transport.

(5) Where goods are delivered to a carrier or other bailee for transmission, the movement of the goods shall be deemed to commence at the time of such delivery and terminate at the time when delivery is taken from such carrier or bailee. Where before delivery is taken from him, a carrier or bailee to whom goods are delivered for transmission, keeps the said goods in any office, shop, godown, vessel, receptacle, vehicle or any other place of business or any building or place, any officer empowered to exercise the powers under this section shall have power to enter into and search such office, shop, godown, vessel, receptacle, vehicle or other place of business or building or place and to examine the goods and inspect all records relating to such goods. The carrier or bailee or the person-in-charge of the goods and records shall give all facilities for such examination or inspection and shall, if so required, produce the bill of sale or delivery note or other documents referred to in sub-section (2) and give a declaration containing such particulars as may be prescribed regarding the goods and give his name and address and the name and address of the carrier or the bailee and the consignee.

(6) If any officer empowered to enter into and search any office, shop, godown, vessel, receptacle, vehicle or any other place of business or any building or place where a carrier or bailee keeps the goods delivered to him for transmission, has reason to suspect that such carrier or bailee has colluded with the owner of the goods in evading payment of any tax, he may, for reasons to be recorded in writing, seize accounts, registers, records or other documents of the bailee or carrier as he may consider necessary and shall give a receipt for the same. The accounts, registers, records and other documents seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceeding under this Act:

Provided that all searches and seizures under sub-section (5) or (6) shall, so far as may be, made in accordance with the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974):

Provided further that accounts, registers, records and other documents so seized shall not be retained by such officer for a period exceeding one hundred eighty days from the date of seizure, unless the reasons for retaining the same beyond the said period are recorded by him in writing and the

approval of the next higher authority is obtained and such approval in any case shall not be for more than sixty days at a time.

(7) Where the officer-in-charge of the checkpost or barrier, or the officer empowered as aforesaid on interception of the goods vehicle or inspection of any godown, is of the opinion that further verification is necessary with respect to either accuracy of the particulars furnished in the documents accompanying the goods under transport or in transit, or as to the sufficiency and the cause adduced in respect of any contravention of sub-section (2), he may verify the particulars himself or if it is necessary cause it to be verified by referring the matter to any other officer and if such verification is not likely to be completed within a reasonable time, he may direct in writing the carrier or the person-in-charge of the goods vehicle or the godown not to deliver the goods until permitted to do so by him or such other officer to whom the matter is referred for verification and allow the intercepted vehicle, if any, to pass through.

(8) The verification under sub-section (7) shall be completed within a period of fifteen days from the date of the direction issued under that sub-section and where such verification cannot be completed within the aforesaid period, the officer who has issued such direction, or, as the case may be, the officer to whom the matter is referred for verification shall obtain the permission in writing of the next higher authority to extend such period for completion of the verification, so however, such extension shall not be permitted for the period exceeding fifteen days at a time.

(9) Where such officer or other officer to whom the matter is referred, upon such verification is of the opinion that there is a non-compliance with sub-section (2), punishable under sub-section (4), he may, proceed against such goods in the custody of the carrier, or the person-in-charge of vehicle or the godown in accordance with sub-section (4) of this section.

(10) Where the officer-in-charge of the checkpost or any empowered officer has issued a notice for contravention of any of the provisions of this section, further proceedings in pursuance to such notice may, subject to such conditions and in such manner as may be prescribed, be continued by any other officer empowered by the Commissioner in this behalf, from the stage at which it is pending.

38. *Transit of goods by road through the State and issue of transit pass.*— (1) When a vehicle coming from any place outside the State and bound for any other place outside the State and carrying goods taxable under this Act, passes through the State, the driver or any other person in-charge of such vehicle shall furnish the necessary information and obtain a transit pass in duplicate containing such particulars as may be prescribed from the officer-in-charge of the first checkpost or barrier after his entry into the State.

(2) The driver or the person in-charge of the vehicle shall deliver within the stipulated time a copy of transit pass obtained under sub-section (1) to the officer-in-charge at last checkpost or barrier before his exit from the State.

(3) If for any reason, the goods carried in a goods vehicle are, after entry into the State, not moved out of the State within the time stipulated in the transit pass, the owner of the goods vehicle shall furnish to the officer empowered in this behalf the reasons for such delay and other particulars, if any, thereof and such officer shall, after due enquiry, extend the time of exit by suitably amending the transit pass:

Provided that where the goods carried by a vehicle are, after their entry into the State, transported outside the State by any other vehicle or conveyances, the onus of proving that the goods have actually moved out of the State shall be on the owner of the vehicle who originally brought the goods into the State.

(4) If the driver or any other person in-charge of the vehicle does not comply with the provisions of sub-section (2), it shall be presumed that the goods carried thereby have been sold within the State by the owner of the vehicle and shall, notwithstanding anything contained in this Act, be assessed to tax by the officer empowered in this behalf in the prescribed manner.

(5) If the owner of the vehicle fails to obtain the transit pass as provided under sub-section (1), or fails to deliver the same as provided under sub-section (2), he shall be liable to pay by way of penalty a sum not exceeding double the amount of tax leviable on the goods transported.

(6) The amount of tax and the penalty levied under this section shall be recovered in the prescribed manner.

Explanation.— In case where a vehicle owned by a person is hired for transportation of goods by some other person, the hirer of the vehicle shall, for the purpose of this section, be deemed to be the owner of the vehicle.

39. *Forwarding agency, etc., to submit returns.*— Every clearing or forwarding house or agency, transporting agency, shipping agency, shipping out-agency or steamer agency in the State shall submit to the assessing authority of the area such returns as may be prescribed of all goods cleared, forwarded, transported or shipped by it into the concerned local area. The assessing authority concerned shall have power to call for and examine the books of accounts or other documents in the possession of such agency with a view to verify the correctness of the return submitted.

40. *Submission of certain records, by owners, etc., of vehicles and boats.*— The owner or other person-in-charge of a goods vehicle or boat shall, in respect of the goods transported by him in such vehicle or boat submit to the assessing authority having jurisdiction over the local area in which the goods are delivered, such particulars thereof and within such time and manner as may be prescribed.

41. *Offences and penalties.*— (1) Any person who —

(a) being a person obliged to get himself registered under this Act does not get himself so registered; or

(b) being a dealer in goods fails to submit a return as required by the provisions of this Act or the Rules made thereunder; or

(c) fails to comply with a notice issued under section 17; or

(d) fails to submit a statement as required by section 18; or

(e) fails to pay within the time allowed any tax assessed on him or any penalty levied on him under this Act; or

(f) fails to issue a sale bill or cash memorandum in accordance with the provisions of sub-section (2) and (3) of section 35; or

(g) fails to keep true and complete accounts, shall, on conviction by a Magistrate, be liable to a fine which shall not be less than five hundred

rupees but which may extend to two thousand rupees;

(2) Any person who,—

(a) wilfully submits an untrue return, or not being already an assessee under this Act, fails to submit a return as required by the provisions of this Act or the Rules made thereunder; or

(b) wilfully submits an untrue statement under section 18;

(c) fraudulently evades the payments of any tax assessed on him or other amount due from him under this Act; or

(d) wilfully acts in contravention of any of the provisions of this Act or the Rules made thereunder,

shall, on conviction, in addition to the recovery of any tax that may be due from him, be punishable with simple imprisonment which may extend to twelve months or with fine which shall not be less than five thousand rupees but which may extend to twenty-five thousand rupees or with both and when the offence is a continuing one, with a daily fine not exceeding two hundred rupees during the period of the continuance of the offence.

42. *Cognizance of offence.*— (1) No Court shall take cognizance of any offence punishable under sub-section (2) of section 41, except with the previous sanction of the Commissioner.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), all offences punishable under sub-section (2) of section 41 shall be cognizable and bailable.

43. *Composition of offences.*— (1) If the person committing an offence under this Act is a company, the company as well as every person-in-charge of, and responsible, to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, managing agent or any other officer of the company, such director, manager, managing agent or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

44. *Assessment, etc., not to be questioned in prosecution.*— The validity of the assessment of any tax or of the levy of any fee or other amount, made under this Act, or the liability of any person to pay any tax, fee or other amount so assessed or levied shall not be questioned in any Criminal Court in any prosecution or other proceeding, whether under this Act or otherwise.

45. *Bar of certain proceedings.*— (1) No suit, prosecution or other proceedings shall lie against any officer or servant of the Government, for any act done or purporting to be done under this Act without the previous sanction of the Government.

(2) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of duties or the discharge of the functions imposed by or under this Act.

46. *Courts not to set aside or modify assessment except as provided in this Act.*— No suit or other proceeding shall, except as expressly provided in this Act, be instituted in any Court to set aside or modify any assessment made under this Act.

47. *Burden of proof.*— (1) For purposes of assessment of tax under this Act, the burden of proving that goods brought or caused to be brought into a local area or taken delivery of by a dealer, is not liable to tax under this Act shall be on such dealer.

(2) Notwithstanding anything contained in this Act or any other law, where any dealer or person prefers claim under sub-section (3) of section 3 that he is not liable to pay tax under this Act in respect of any goods on which tax is leviable, such dealer or person shall be deemed to be the dealer or person liable to tax under this Act, unless he proves that in respect of such goods tax under this Act has already been paid or has become payable or that tax under the Goa Sales Tax Act, 1964 (Act 4 of 1964) has already been paid or has become payable, as the case may be.

(3) Where a dealer furnishes, issues or produces bill of sale, voucher, the declaration, certificate or any other document which he knows or has reasons to believe to be false with a view to support or make any claim that he or any other dealer is not liable to be taxed under this Act, the assessing authority shall on detecting such furnishing or issue or production, direct the dealer furnishing, issuing or producing such a bill of sale, voucher, the declaration, the certificate or other documents to pay as penalty,—

(i) in the case of first detection, three times the tax levied or leviable in respect of such goods; and

(ii) in the case of second or subsequent detection, five times the tax levied or leviable in respect of such goods:

Provided that before issuing any direction for payment of penalty under this sub-section, the assessing authority shall give to the dealer an opportunity of being heard against the levy of such penalty.

48. *Refund of tax in certain cases.*— The tax paid by a registered dealer in respect of any goods shall be refunded to him, where such goods are sold by him in the course of export out of the territory of India.

Explanation.— (1) For the purposes of this section, the expression "export out of the territory of India" shall have the meaning assigned to it under the provisions of sub-section (1) of section 5 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956).

(2) The burden of proving that any goods were sold in the course of export out of the territory of India shall be on the registered dealer.

49. *Power to make rules.*— (1) The Government may, make rules, by notification, to carry out the purpose of this Act.—

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for,—

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the assessment to tax in respect of a business which is discontinued or the ownership of which has changed;

(c) the procedure for assessment of Central and State Government Departments, Statutory bodies and local authorities;

(d) the assessment to tax in respect of a business owned by minors and other incapacitated persons or by persons residing outside the State of Goa;

(e) the assessment to tax under this Act of any goods which have escaped assessment;

(f) procedure for registration of dealers under section 8;

(g) refund of tax collected if the goods have not been consumed, sold or used within the local area;

(h) compelling the submission of returns and the production of documents and enforcing the attendance of persons and examining them on oath or affirmation;

(i) specifying the class of dealers who need not furnish statement under section 18;

(j) the duties and powers of officers appointed for the purpose of enforcing the provisions of this Act;

(k) generally regulating the procedure to be followed, and the forms to be adopted in proceedings under this Act;

(l) any other matter including levy of fees for which there is no provision or no sufficient provision in this Act and for which provision is in the opinion of the Government, necessary for giving effect to the purpose of this Act.

(3) In making a rule under sub-section (1) or sub-section (2), the Government may provide that a person guilty of a breach thereof shall, on conviction, be punishable with fine which may extend to five thousand rupees and, where the breach is a continuing one, with further fine which may extend to one hundred rupees for every day after the first day during which the breach continues.

(4) Any rule under this Act may be made to have effect retrospectively and when any such rule is made, a statement specifying the reasons for making such a rule shall be laid before the State Legislature along with the rule.

50. *Laying of rules and Notifications before the State Legislature.*— Every rule made under this Act and every Notification issued under the provisions of this Act shall be laid as soon as may be after it is published, before the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the sessions immediately following, the State Legislature agree in making any modification in the rule or Notification or agrees that the rule or Notification should not be made, the rule or Notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or Notification.

51. *Power to remove difficulties.*— If any difficulty arises in giving effect to the provisions of this Act, the Government may, by notification, make such provisions as appear to it to be necessary or expedient for removing the difficulty.

SCHEDULE I

[See section 3(1)]

(1) Air-conditioning plants, air-coolers and air-conditioners and parts thereof.

(2) Brass, bronze and copper articles including sheets, circles, rods, rounds, squares and flats made of brass, bronze and copper but excluding those specified elsewhere.

(3) Bullion and specie and articles made of gold and silver other than those specified elsewhere.

(4) Butter, ghee and cheese.

(5) Cassette tape recorders and players (audio and video) including audio and video cassettes.

(6) Cement and water and weather proofing compounds.

(7) Chemicals of all kinds.

(8) Edible oils including hydrogenated oils and cooking medium.

(9) Dyes.

(10) Electrical and electronic goods, appliances, instruments and apparatus and parts and accessories thereof but excluding those specified elsewhere.

(11) Fibreglass sheets and articles made of fibreglass.

(12) Fire works and colour matches.

(13) Foamed rubber, plastic foam or any other synthetic foam articles such as sheets, cushions, pillows, mattresses and the like.

(14) Furniture of all kinds including treasure chests, safes and lockers and parts and accessories thereof.

(15) Hardware, that is to say:-

(i) fittings of doors, windows and furniture (made of base metal and alloy thereof);

(ii) bolts, nuts, rivets, screws of base metal or alloy thereof including bolt ends, screw studdings, self tapped screws, screw hooks, screw rings, wire nails, measuring tapes and scales;

(iii) Metallic barbed wire, metallic wire mesh and metallic wire nettings.

(16) Industrial gas, such as oxygen, acetylene, nitrogen and the like.

(17) Laminated, impregnated or coated matting materials such as linoleum generally used for floor covering (other than floor tiles).

(18) Lifts, elevators and escalators whether operated by electricity or hydraulic power.

(19) Machinery (all kinds) and parts and accessories thereof but excluding agricultural machinery.

(20) Marble slabs and articles made therefrom.

(21) Medicinal and Pharmaceutical preparations.

(22) Motor vehicles (all kinds) and parts and accessories thereof including chassis of motor vehicles.

(23) Non-ferrous castings and ingots and scrap base metals (other than iron and steel scrap) and alloys thereof.

(24) Paints, colours, varnishes, pigments, polishes, indigo, enamel, bale oil, white oil, turpentine (all kinds), thinners, primers and paint brushes.

(25) Paper (all kinds) including carbon paper, blotting paper, waterproof paper, PVC coated paper, ferropaper, ammonia paper, stencil paper but excluding photographic paper, pulp boards, art boards, duplex boards, triplex boards, card boards, corrugated boards and the like; cellophane.

(26) Packing materials namely:—

(i) fibre board cases, paper boxes, folding cartons, paper bags, carrier bags and card board boxes, corrugated board boxes and the like;

(ii) tin plate containers (cans, tins and boxes), tin sheets, aluminium foil, aluminium tubes, collapsible tubes, aluminium or steel drums, barrels and crates and the like;

(iii) plastic, poly-vinyl chloride and polyethylene films, bottles, pots, jars, boxes, crates, cans, carboys, drums, bags and cushion materials and the like;

(iv) wooden boxes, crates, casks and containers and the like;

(v) gunny bags, bardon (including batars), hessian cloth, and the like;

(vi) glass bottles, jars and carboys and the like;

(vii) laminated packing materials, such as bituminized paper and hessian based paper and the like.

(27) Molasses.

(28) (a) Petroleum products; that is to say; petrol, diesel, lubricating oil, transformer oil, brake or clutch fluid, bitumen (asphalt), tar, aviation fuel and Naptha.

(b) Crude oil, liquid petroleum gas (LPG) and kerosene.

(29) Readymade garments including caps, neck ties and bows.

(30) Refrigerators including deep freezers, bottlecoolers, water coolers, cold storage equipments and the like and parts thereof.

(31) Rolling shutters and collapsible gates whether operated manually, mechanically or electrically and their parts.

(32) Iron and Steel scrap.

(33) Raw materials, component parts and inputs which are used in the manufacture of an intermediate or finished product other than those specified in the Second Schedule.

(34) Rubber and other tyres, tubes and flaps other than those specified in section 14 of the Central Sales Tax Act, 1956.

(35) Sanitary fittings of every description excluding pipes and fittings of stoneware, cement and iron and steel.

(36) Spirits and alcohol, that is to say,—

(i) denatured spirit;

(ii) rectified spirit;

(iii) ethyl alcohol.

(37) Stones, that is to say,—

(i) Granite stones, slabs and chips

(ii) Cuddapah stones and slabs;

(iii) Shahabad stones and slabs.

(38) Goods other than those specified in any of the entries in this Schedule, but excluding those specified in Schedule II.

SCHEDULE II

[See section 3(4)]

Sl. No.	Description of goods
(1)	Agricultural implements.
(2)	Agricultural machinery.
(3)	Books meant for reading.
(4)	Bread.
(5)	Ballot Boxes.
(6)	Contraceptives.
(7)	Electrical energy.
(8)	Fishmeal, poultry feed and processed animal feed.
(9)	Firewood and charcoal.
(10)	Goods manufactured and sold by S.S.I., M.S.I., L.S.I. availing benefit of entry 68 or entry 85 of the Second Schedule appended to the Goa Sales Tax Act, 1964 (Act 4 of 1964).
(11)	Goods covered by Second Schedule appended to the Goa Sales Tax Act, 1964 (Act 4 of 1964).

Secretariat Annexe,
Panaji,

R. RAGHURAMAN,
Secretary to
the Government of Goa,
Law Department (Legal Affairs)

Dated: 11-8-2000